



March • 2003

## Taming the **Red Dragon**: Getting in and Succeeding in China

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No matter how far the IT industry continues to contract, there still remains worldwide optimism towards the China IT market. Why? It's a timeless reason—population. According to the CIA World Factbook, the population of China is 1.28 billion—almost a quarter of the entire human population. Couple that with China's accession to the WTO, rapidly developing consumer market and an easing of government restrictions, and you have an enormous untapped market potential. Companies are seeing dollar signs.

But it's never that easy. For Oregon companies interested in the China market, there are several crucial characteristics of successful companies:

- **Avoid "China-euphoria"**: know the market; do risk analysis
- **IPR**: most important risk issue for foreign investors
- **Due diligence**: know your partner in China like your best friend
- **Cultural awareness**: avoid becoming a trade complaint statistic
- **WTO compliance**: sounds simple, but you might be surprised...
- **Know where to drop anchor**: it's a big country, where do you begin?

### Preparation makes perfect

**Do a thorough risk analysis.** The majority of American companies currently experiencing trouble in China have been caught up in "China-euphoria." Typically, they did not perform thorough risk analysis, assuming that China is somehow different. When it comes to taking undue risk, China is not different. Do not have a corporate risk analysis policy for China that is different than you would have for any other country. If a project is too risky, don't do it—even though it is in China.

Useful website:

[www.dnb.com](http://www.dnb.com)—Dun and Bradstreet Risk Management Solutions and Reports

**Be realistic.** Be clear about how much risk you are willing to accept in your business venture. Make sure you use reliable sources for your assessment. Use more than news media sources or your immediate partners to evaluate the market.

**Make certain your project is economically viable.** Profitability of a project or the sale of goods and services should be based on sound economic criteria. Do not rely on

promises of subsidies, special considerations, or non-market-related sources of income to create a profit. If subsidies are offered, they should be used to augment profit, not create it. Make certain your partner has the authority to offer subsidies and assure yourself from independent sources that the subsidies will actually be paid. Look for examples of companies who have actually received such benefits.

### **IPR—Major current issue**

Foreign software providers still have major concerns about Intellectual Property Rights (IPR) enforcement in China.

In spite of steady, significant progress in improving its intellectual property legal and regulatory structure, China continues to be a challenging environment for IPR protection. Criminal penalties are seldom applied, while administrative sanctions are frequently too weak. Trademark and copyright violations are blatant and widespread. While Chinese officials are increasing enforcement efforts, violations continue to outpace enforcement.

**IPR climate.** Large-scale violations of intellectual property rights in China, including counterfeiting and smuggling, often overwhelm enforcement efforts. Industry associations representing computer software, entertainment and consumer goods industries report high levels of piracy and counterfeiting of all types of products. The Business Software Alliance estimates that more than 90 percent of business software used in China is pirated. Consumer goods companies report that, on average, 20 percent of their products in the Chinese market are counterfeit. Chinese companies experience similar, or greater, problems with piracy and counterfeits.

**Inadequate enforcement.** Enforcement of IPR laws and regulations, through either judicial or administrative means, remains a serious problem. Enforcement of IPR regulations is uneven and is sometimes impeded by local interests. Administrative penalties for IPR violations, often no more than confiscation of the counterfeit products, are generally insufficient to deter counterfeiters.

**China's IPR commitments.** As part of its protocols of accession to the WTO, China has committed to full compliance with the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS), as well as other TRIPS-related commitments.

### **Due diligence**

**Know your partner. Do your "due diligence" and do it well.** Check the reliability of the data on your partner or customer from independent sources. Avoid being "stove piped"—talking only to those people to whom your partner or buyer directs you. Number one on your list should be to make sure you get paid. A contract with an insolvent partner or customer is worthless. Pay careful attention to how you get paid, when you get paid, and in which currency. If you want to be paid in U.S. dollars, be certain you are able to convert profits. Use letters of credit and other financial instruments to protect yourself. If you do not want to use a letter of credit, require your partner to make advance payment.

Remember that Chinese companies usually do not use terms that allow unsecured payments after delivery of the product. For example, payment terms of "30% letter of credit, 70% payment 120 days after delivery" would not be customary in China. For most large projects, terms of "70% advance payment, 30% letter of credit" would not be unusual. Offering payment after delivery tells your partner that you don't know how business is done in China and makes you look easy to deceive. NEVER agree to unsecured payments after delivery.

Useful website:

<http://www.buyusa.gov/china/en/icp.html>

### **Cultural awareness**

Doing business in China is much different than in the U.S. The Chinese business culture varies from the U.S. business culture on a wide range of issues. These range from larger-scaled issues of having a different calendar and time expectations to the smaller issues like the importance of the color red to the Chinese.

**Relativity of time.** Attitudes on time vary from country to country. What may be considered tactful and on time in one country may be rude and late in another country. Know the time expectations of the Chinese culture before you visit or set deadlines. Different calendars are used throughout the world. The Western (Gregorian) calendar must compete with the Chinese calendar, among others. When different calendars are in use, it is best to use both calendars' dates on all memos and correspondence. Avoid saying "we need delivery within a month," because different calendars have months of different lengths. Instead, give the exact number of days. Also, be aware of differences in workweeks, and remember that holidays vary throughout the world.

**Use of colors.** The color of your logo or business card may work against you in China. Different colors have great significance within the Chinese culture. For instance, the color red has several different meanings. Even though red is considered a lucky color in the Asian culture, it symbolizes death when writing a personal name. According to Buddhist tradition, the names of the deceased are written in red, so if a living person's name is written in red it can be very offensive, and mean that you predict that person will soon die! Although red is not a good color choice for personal names, it is considered lucky otherwise. Red is used at birthdays, weddings, and employees' annual bonuses are given to them in red envelopes during the Chinese New Year. So using red in your logo would be a good idea in China.

Just to make sure before you "show your colors" in a foreign market—including China—consult a native to see if your logo and its colors have any hidden meanings or are offensive in any way.

**Building personal relationships.** Personal relationships in China are critical. The Chinese feel more comfortable dealing with "old friends" and it is important for exporters, importers and investors to establish and maintain close relationships with

their Chinese counterparts and relevant government agencies. It is equally important that American exporters encourage strong personal relationships between their Chinese agents or distributors and the buyers and end-users. A web of strong personal relationships will help ensure smoother development of business in China.

The misconceptions our media creates of different cultures need to be left behind when traveling overseas. Foreign expectations and stereotypes that we find in movies or ethnic jokes are not always accurate and can be wrong. You need to remember that while you may not be the “typical” American, your business contact in China may not be the “typical” Chinese. So if you travel abroad try to leave behind your preconceptions and do not expect every Chinese individual to act in a certain way.

Useful websites:

<http://www.getcustoms.com/articles/oag1297.html>—Doing business abroad in China

<http://www.getcustoms.com/articles/chitips.html>—Hints for doing business in China

### **China’s software hub: where to focus**

It is important to note that China has now designated eleven software industry “bases” (Ji di). In July 2001, the State Planning Committee and the Ministry of Information Industry consolidated China’s original 40 software parks into 11 national software industry bases located in Beijing, Shanghai, Dailian, Chengdu, Xian, Jinan, Guangzhou, Changsha, Hangzhou, Nanjin and Zhuhai cities.

### **WTO compliance: regulatory change on the horizon**

China has made recent free-trade commitments to the World Trade Organization (WTO). Its new proposal to restrict the China software market to domestic companies only does not actually violate its WTO commitments, but it does violate the spirit of the WTO agreement for free trade. According to the Wall Street Journal, “the WTO generally prohibits member states from enacting laws that give domestic companies artificial advantages over foreign competitors, government procurement contracts fall into a gray area.” Apparently, China has failed to sign the WTO government procurement stipulations that would give foreign companies equal access to government contracts. The procurement guidelines that have been proposed in China may require its central and local governments to buy most of their software from domestic suppliers. If implemented, foreign software makers would have limited access to the China software market, including U.S. corporations Microsoft and Oracle.

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